

DEFINITION OF MANUFACTURER

Prior Law

There is an exemption from sales or use tax from the sale or rental of computers, machinery, and equipment if the computers, machinery and equipment are directly and primarily used in processing by a manufacturer. Statutorily, manufacturer, for sales tax purposes, is defined in section 428.20, which defines manufacturer for property tax assessment purposes. A contract manufacturer is a manufacturer that otherwise falls within the definition of manufacturer under section 428.20, except that a contract manufacturer does not sell the tangible personal property it processes on behalf of other manufacturers.

Iowa Code section 428.20 defines manufacturer for real property tax assessment purposes to mean a person who purchases, receives, or holds personal property of any description for the purpose of adding to its value by a process of manufacturing, refining, purifying, combining of different materials, or by the packing of meats, with a view to selling the property for gain or profit.

The Department's definition of manufacturer was challenged in front of the Iowa Supreme Court in *Sherwin-Williams v. Iowa Dept. of Revenue*, 789 N.W.2d 417 (Iowa 2010). The issue was whether Sherwin-Williams was entitled to the manufacturing exemption for equipment used in its retail outlets. The Department argued that only equipment used by one whose principal business is manufacturing is exempt because allowing the exemption to be applied to a retail establishment would produce the absurd result of including as manufacturers restaurants, bars, lemonade stands, and various home-improvement stores. The Department also argued that the word manufacturer must be interpreted consistently with its common meaning, encompassing only those whose principal business is manufacturing, and because the equipment at issue was used in establishments whose principal business is retail sales, the manufacturing exemption did not apply.

The Department also argued the court should look to the definition of manufacturer in section 428.20 which applies to both sales/use tax and property tax, and make a ruling for sales tax not inconsistent with property tax. Under property tax rules, a manufacturing establishment is a business entity in which the primary activity consists of adding to the value of personal property by any processing of manufacturing, refining, purifying, the packing of meats, or the combination of different materials with the intent of selling for gain or profit. The Department's property classification rules provide that commercial real estate includes land and structures which are primarily used or intended as a place of business where goods, wares, services, or merchandise is stored or offered for sale at wholesale or retail. Sherwin-Williams' retail stores were assessed for property-tax purposes as commercial real estate, not industrial real estate.

The court did not agree with the Department's arguments and found that sales and use tax can be imposed based on the use of the specific equipment as opposed to the taxpayer's use of the premises as a whole. Therefore, the classification of the real property for property tax assessment purposes does not matter. Rather, it is how the machinery or equipment is being used. The court did not find it absurd for the legislature to accord a retailer a manufacturer's exemption when specific equipment is used by the retailer in the same manner and for the same purpose as such equipment would be used by a taxpayer whose principal business is manufacturing.

New Provisions

To codify *Sherwin-Williams*, a manufacturer is now defined to mean a person who purchases, receives, or holds personal property of any description for the purpose of adding to its value by a process of manufacturing, refining, purifying, combining of different materials, or by the packing of meats, with a view to selling the property for gain or profit, in addition to contract manufacturers. Contract manufacturers are defined in the same way and are no longer defined under section 428.20.

In addition, language was added to clarify that it is not necessary that a person be primarily engaged in an activity listed in the definition of manufacturer in order to qualify as a manufacturer for sales or use tax purposes.

Section Amended

Section 127 of 2013 Iowa Acts Senate File 452 amends section 423.3, subsection 47, paragraph d, subparagraph (4), Code 2013.

Effective Date

July 1, 2013.